

CALIFORNIA COASTAL COMMISSION

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Mn 14 a

**DE NOVO HEARING ON APPEAL
STAFF REPORT AND RECOMMENDATION**

LOCAL GOVERNMENT: City of Rancho Palos Verdes

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-RPV-01-066

APPLICANT: Capital Pacific Holdings, Inc./ Makallon RPV Assoc., LLC

AGENTS: Culbertson, Adams and Associates, Attn: Ellis Delameter

PROJECT LOCATION: Tract No. 46628 (*Oceanfront*), Hawthorne Boulevard and Palos Verdes Drive West, City of Rancho Palos Verdes, Los Angeles County

PROJECT DESCRIPTION: Appeals by Commissioners Sara Wan and Cecilia Estolano, William and Marianne Hunter, and Rowland Driskell from the City of Rancho Palos Verdes approval of Coastal Permit No. 94-Revision 'A' allowing Capital Pacific Holdings, Inc. to construct three manned tract entry observation booths on the median islands at the entries to the interior public streets (Paseo de la Luz, Via del Cielo and Calle Viento) of the *Oceanfront* community of Rancho Palos Verdes

DEVELOPMENT APPROVED AS PART OF CDP 94A BY THE PLANNING COMMISSION AND NOT INCLUDED IN NOTICE OF FINAL ACTION: Conditional Use Permit No. 158-Revision 'C' and Sign Permit No. 1096 for "small sections of maximum 6-foot-tall perimeter wall, fountains and tract identification signs."

APPLICANT'S CHANGES TO PROJECT DESCRIPTION FOR DE NOVO ACTION:

After the Fact Development: 1) Temporary placement of two five-foot high iron gates across the northern end of Via del Cielo, an internal public street.

New Development: 2) coastal access signs located throughout the development.

3) increase height of sections of the perimeter fence at the two Palos Verdes Drive West entrances of the subdivision (Calle Entradero and Via Vicente) to six feet and to change the

design from an "open design" to a plastered solid block wall, and to include a fountain and 14 to 16-foot wide tract identification signs.

SUMMARY OF STAFF RECOMMENDATION:

At its hearing on April 10, 2001 the Commission found that the appeals of the underlying permit amendment raised a "substantial issue" with respect to that permit's consistency with the certified Local Coastal Program and with the Public access policies of the Coastal Act. The Commission is now required to hold a de novo hearing on the merits of the project.

Staff recommends that the Commission, after a public hearing, **deny** the permit for reasons that the proposed structures are inconsistent with the public access and recreation provisions of the Coastal Act Sections 30210, 30212(a) and 30221, and the City of Rancho Palos Verdes certified Local Coastal Program (LCP) policies addressing public access, public recreation and visual resources. The motion to carry out the staff recommendation is on **page 3**.

SUBSTANTIVE FILE DOCUMENTS:

1. Rancho Palos Verdes Local Coastal Permit No. 94-Revision 'A', Conditional Use Permit No. 158-Revision 'C', Sign Permit No. 1096, Encroachment Permit No. 32
2. Rancho Palos Verdes Administrative Record for Coastal Permit No. 94-Revision 'A'
3. California Coastal Commission file A5-92-RPV-123
4. City of Rancho Palos Verdes Total Local Coastal Program Revised Findings on Resubmittal (May 4, 1983)
5. City of Rancho Palos Verdes Coastal Specific Plan (1978), City of Rancho Palos Verdes Development Code (1982)
6. Rancho Palos Verdes City Council Resolutions 92-6, 92-26, 92-27 and 2001-08
7. Rancho Palos Verdes City Council Staff Report, March 3, 1992
8. Vesting Tentative Tract Map No. 46628
9. *Public Parking Analysis for the Oceanfront Community*, Vesting Tentative Tract Map No. 46628 Rancho Palos Verdes, Linscott Law & Greenspan Engineers, September 26, 2001.
10. *View Analysis-Calle Viento location, Oceanfront Community*, Vesting Tentative Tract Map No. 46628 Rancho Palos Verdes, Culbertson, Adams & Associates Planning Consultants, August 28, 2001.
11. Rancho Palos Verdes Planning Division Approval in Concept for North and South Entry, October 24, 2001.
12. Rancho Palos Verdes Planning Division Approval in Concept for Coastal Access Signage, October 24, 2001.

APPEAL PROCEDURES

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of local government actions on coastal development. Locally issued coastal development permits may be appealed if the development is located within the appealable areas established in Coastal Act Section 30603. In incorporated cities, these include areas located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or within 100 feet of wetlands. Developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)]. The subdivision approved in Coastal Permit No. 94 is located in an appealable area because it is located less than three hundred feet of the inland extent of the beach and between the first public road and the sea. Any amendment to this permit is likewise appealable.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. A-5-RPV-01-066 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATION

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The project before the Commission in this appeal is an amendment to terms, conditions and project description of development authorized under Coastal Permit No. 94. The proposal includes the construction of three 224 square-foot, 12-foot high, manned tract entry "observation booths" (Exhibit 3) on the median islands at the entries to the interior public streets (Paseo de la Luz, Via del Cielo and Calle Viento) of the Oceanfront community of Rancho Palos Verdes (Exhibit 2). The "observation booths" will contain restrooms for the use of guards, replacement of the tract fencing with a six-foot high decorative wall at the two project entries the addition of decorative elements to the walls, placement of signs and placement of temporary five-foot high locked iron gates (after the fact development) to close off an approximately 400 foot section of Via del Cielo, an interior tract street.

B. PROJECT HISTORY

On February 7, 2001, The City issued Coastal Permit No. 94-Revision 'A' to permit the observation booths; six-foot high solid sections of the project's perimeter fence and fountains attached to that solid wall. The Planning Commission approved the design details as a conditional use permit and also as part of this CDP action. The change in the fence, however, was not noticed as an appealable amendment to the CDP. In addition, the City approved two 5-foot iron fences or gates as a temporary use to extend across one of the interior streets, separating off an interior segment for use as a model site area for home sales. The City did not require a CDP for these gates because it was temporary, which was defined as approximately 3 years. On site visits staff discovered the two gates across one of the interior public streets. This development was not authorized in the City's 1992 action on its underlying coastal development permit. Because this development requires an amendment to Coastal Permit No. 94, the applicant has requested that the Commission consider it as part of this action. The entry treatment perimeter walls and fountains received an approval in concept from the City Planning Commission on October 24, 2001.

The City of Rancho Palos Verdes granted Coastal Permit No. 94 on March 17, 1992. On April 1, 1992 it was appealed to the Coastal Commission (Exhibit 5) and on June 9, 1992, the Commission found no substantial issue. In its original action on Coastal Permit No. 94, the City of Rancho Palos Verdes approved the fence as a three-foot high open fence. In addition, the City adopted several special conditions regarding public access to the streets

and bluff tops of the project and made several findings with regard to the project's consistency with the corridors element of the coastal specific plan (the LCP).

In the original permit, the City required the proposed bluff loop road to be revised and expanded to have a minimum 26 foot roadway width (consistent with coastal development and design guidelines of the certified LCP), clearly showing the on-street parking on the landward side of the street, as well as the Class I bike path and the pedestrian trail on the seaward side of the bluff road (Exhibit 13, P.53), and indicate the topographic relationship between the roadway and the trails.

The original permit Coastal Permit No. 94 provided public access and recreation support over streets, roads, trails, and bikepaths:

All streets, trails, bikepaths and parking areas identified on Revised Vesting Tentative Map Tract No. 46628 shall remain public. Said public parking spaces include, but are not limited to, spaces located on the project plans on Palos Verdes Drive West, the "A" street turnouts, on "B", "C", "D" and "E" streets, and on portions of "A" street that are not located on the "bluff road" portion of "A" street. Long-term public parking shall be permitted from dawn to dusk. No restrictions, including the gating of any residential communities, or abandonment or interference with vertical access paths identified on the project plans, may be imposed to prevent access by the public. Signs, red curbs, structures or other restrictive mechanisms that discourage public use of the parking and other public amenities during the aforementioned hours of public use are not allowed.

1) **Detailed History of Underlying Permit**

On April 23, 1990, VMS/Anden, the original applicant for the planned residential development project, submitted applications for Vesting Tentative Tract Map No. 46628, Conditional Use Permit No. 158, Coastal Permit No. 94, Grading Permit No. 1439 and Environmental Assessment No. 612 for the development of 93 single family residential lots and 1 open space lot on 132 acres of vacant land in Subregion 1 of the coastal zone of Rancho Palos Verdes. On June 7, 1990, the City received notice that Hermes Development International (H.M.D.I.), Inc. had become the sole owner of the subject property. Draft Environmental Impact Report (DEIR) No. 35 was completed in August 1991 and circulated from September 6, 1991 to October 23, 1991 for public review and comment. The DEIR concluded that, even after the implementation of proposed mitigation measures, the project would result in significant adverse impacts to Air Quality, Biological Resources, Noise, Water Service and Visual Resources. The applicant presented the 93-lot configuration to the City Planning Commission and City Council on October 16, 1990 and received comments about modifying the plan to conform to the policies of the Coastal Specific Plan. In an effort to address the environmental concerns identified by the DEIR, as well as the

policies of the Coastal Specific Plan, the applicant significantly redesigned the proposed project¹.

The revised design consisted of 79 residential lots and 5 open space lots (Lots 80, 81, 82, 83 and 84). The open space lots were dispersed over the site in an effort to protect sensitive habitat areas, view corridors and public recreational opportunities. The Planning Commission required the applicant to provide two access corridors connecting open space Lots 80 and 82. The revised design modified the internal circulation by creating a separate bluff road and two internal streets. The City required the developer to improve any useable area seaward of the bluff road for public recreational purposes, such as parking, trails, signs, vista points, seating and fencing².

On February 5, 1992, the City Planning Commission adopted P.C. Resolution No. 92-6 approving Conditional Use Permit No. 158, Coastal Permit No. 94 and Grading Permit No. 1439 for a residential planned development on a 132 acre site consisting of 79 single family residential lots and 5 common open space lots located on the northwest corner of Palos Verdes Drive West and Hawthorne Boulevard. On February 6, 1992, H.M.D.I., Inc., the applicant, submitted an appeal of the Planning Commission's approval of the Conditional Use Permit, Coastal Permit and Grading Permit, so that the City Council could consider these applications in conjunction with the Vesting Tentative Tract Map. On February 14, 1992, Lois Larue, a city resident, submitted a second appeal of the Planning Commission's approval of the project, claiming that the project is inconsistent with the City's Coastal Specific Plan (the certified LCP). Both appeals were filed within the required 15 day appeal period and the City Council held a public hearing on the appeals on March 3, 1992, at which time all interested parties were given an opportunity to be heard and present evidence. On March 17, 1992, the City Council adopted Resolution No. 92-27, upholding the H.M.D.I., Inc. appeal and denying the Larue appeal, thereby approving Conditional Use Permit No. 158, Coastal Permit No. 94 and Grading Permit No. 1439 subject to conditions of approval. Approval of the conditional use permit, coastal permit and grading permit were subject to the approval of Vesting Tentative Tract Map No. 46628. On March 17, 1992, the City Council adopted Resolution No. 92-26 approving Vesting Tentative Tract Map No. 46628 for a residential subdivision with 79 single family lots located at the northwest corner of Palos Verdes Drive West and Hawthorne Boulevard (Exhibit 13, P.45).

In its adoption of Resolution No. 92-27, the City Council resolved for the approval of the conditional use permit and found that the proposed project, as conditioned, mitigated or reduced significant adverse effects to adjacent properties or the permitted uses thereof. The City Council found that the social, recreational and other benefits of the project outweighed any unavoidable adverse environmental impacts that may have occurred as a result of the project. According to the resolution, "The project implements the RS-1/RPD designation of the site in the General Plan and Coastal Specific Plan, while preserving much of the site as natural and recreational open spaces, with a bluff road, public parking, trails

¹ City Council Staff Report, March 3, 1992

² Id.

and vista points that will provide public recreational opportunities and preserve public vistas and habitat areas.” In its adoption of Resolution No. 92-27, the City Council found for the approval of the coastal permit “that the proposed project, which is located between the sea and the first public road, is in conformance with applicable public access and recreational policies of the Coastal Act, in that the proposed project includes a bluff road and will provide public parking, vista points, open space and trails along the bluff top. Lois Larue appealed Coastal Permit No. 94 to the Coastal Commission. On June 9, 1992 the Commission found no substantial issue, after it reviewed the conditions imposed by the local government which included restoration of a minimum 3.873 acres to coastal sage scrub and the dedication of a bluff top park, trail and roads for the public.

2. History of Present Action

On November 28, 2000, the Rancho Palos Verdes Planning Commission approved Coastal Permit No. 94-Revision ‘A’. According to the City, CP 94-Revision ‘A’ included a modification to the tract fencing condition and also included a Conditional Use Permit No. 158-Revision ‘C’ and Sign Permit No. 1096 for small sections of maximum 6-foot-tall perimeter wall, fountains and tract identification signs, and approved with modifications Coastal Permit No. 94-Revision ‘A’ and Encroachment Permit No. 32 for tract entry observation booths in the public rights-of-way of Paseo del la Luz, Via del Cielo and Calle Viento. These changes that were approved by the Planning Commission action, the walls and fences, fountains and tract identification signs, were included in the Planning Commission’s Notice of Final Decision. On December 6, 2000, City Council member and Mayor Pro Tem McTaggart, appealed the Planning Commission’s action with respect to 94-Revision ‘A’ for the observation booths and Encroachment Permit No. 32 only.

On December 11, 2000, Council member Stern also requested City Council review of the Planning Commission’s action. On December 19, 2000, during public hearing, a motion was carried to appeal the Planning Commission’s action concerning the observation booths only and allow the remainder of the Planning Commission’s decision to stand and be implemented. On January 16, 2001, during public hearing, the City Council denied the appeal with the condition that the developer “agrees in writing that the guards be instructed not to deny access to anyone to use the public streets”. On February 6, 2001, during public hearing, the City Council adopted Resolution No. 2001-08, a resolution of the City Council denying the appeal and upholding the Planning Commission approval of Coastal Permit No. 94-Revision ‘A’ and Encroachment Permit No. 32, as amended, for tract entry observation booths in the public rights-of-way of Paseo de la Luz, Via del Cielo and Calle Viento, for the *Oceanfront* project. The City conditioned the approval of CP No. 94-Revision ‘A’ and Encroachment Permit No. 32 with several requirements and restrictions (Exhibit 10, P.9).

Following the City Planning Commission’s decision, the City’s standard 15-day appeal period expired on December 13, 2000 without an appeal from the project applicant or any other interested party. When an appeal request, such as the one by Council member McTaggart on December 6, 2000, is received by the City Manager, the appeal period for the City Council is automatically extended by thirty additional calendar days. The City held

an extended 30-day appeal period, which expired on January 12, 2001 with an appeal filed by City Council on December 19, 2000.

The City provided public notice of the October 24, 2000, November 14, 2000, November 28, 2000, January 16, 2001 and February 6, 2001 public hearings. During the public notice period, the City Planning Department received eight letters expressing opposition to the project and six letters in support of the project. The letters of opposition to the project expressed concern that the observation booths would intimidate the public from accessing the public streets, parking areas, trails and open space areas.

On February 7, 2001, the City Council issued the Notice of Final Decision for CP No. 94-Revision 'A' (Exhibit 10). The City's Notice of Final Decision was received in the South Coast District Office in Long Beach on February 8, 2001. The City Council's Notice of Final Decision included a resolution by the City Council (2001-08) approving the booths, as described above, and a resolution by the City Planning Commission (2000-41) approving CUP 158-Revision 'C' and Sign Permit No. 1096 for small sections of max. 6-foot-tall perimeter wall, fountains and tract identification signs, and approving with modifications CP 94-Revision 'A' and Encroachment Permit No. 32 for tract entry observation booths in the public rights-of-way.

Having received a complete record on February 8, 2001, the Commission required ten working day appeal period commenced on February 9, 2001. Commissioners Wan and Estolano, William and Marianne Hunter, and Rowland Driskell filed appeals with the Commission on February 26, 2001. The Commission's ten working-day appeal period ended at 5:00 p.m. on February 26, 2001. The Commission also has before it additional development which, as defined in Section 30106, should have received a Coastal Development Permit, but which is not described in neither the Coastal Permit No. 94 or in 94-Revision 'A'.

On site visits staff discovered two iron gates across Via del Cielo. This development was not authorized in the City's 1992 action on its underlying coastal development permit. The applicant and City staff stated that this development had been approved by the Rancho Palos Verdes Planning Commission in a related matter addressed at the same Planning Commission hearing when the Planning Commission approved this CDP. Again, the City simply allowed the council to appeal only part of the permit and since these items were not noticed as subject to a coastal development permit, they were not appealed to the City Council or the Coastal Commission. Instead, the applicant received a special use permit from the City for the gates on the grounds that the gates are temporary; they would be removed after sale of the tract lots, which may take three years. The City contends that the gates are required to be removed once all of the homes are sold and the sales offices close. Staff note: The iron gates that are across the street, the 6-foot high perimeter wall, the fountains and signs were not authorized in the City's 1992 action on its underlying coastal development permit. The applicant is requesting to incorporate all of the development on the site that requires a coastal development permit and has not received it into its Commission action.

Following the Substantial Issue portion of this appeal, the applicant has submitted a coastal access signage plan to be reviewed by the Commission as part of the project under appeal. The majority of the signs have received an approval in concept by the City of Rancho Palos Verdes (Exhibit 8). The following signs received local approval (AIC):

- 1) A 42-inch high, 13.5-feet long monument sign located at each of the main entrances of the Oceanfront Community. One is to be placed on the southern side of Via Vicente and one on the southern side of Calle Entradero
 - 2) Three 18x24-inch *Streets Open to the Public* signs located next to each observation booth
 - 3) Three 18x24-inch *Emergency Telephone Available* signs located on the medians with the observation booths
 - 4) Two 12x12-inch trail head signs at the entrances to the two ocean bluff trails
 - 5) Two 12x12-inch *Wildlife Crossing* signs located on each end of a dedicated wildlife easement between Lots 25 and 26
 - 6) Two 12x18-inch *Sensitive Habitat Area* signs located at the open space areas between Palos Verdes Drive and Paseo de la Luz and Via del Cielo
 - 7) Five 12x18-inch *Parking Dusk to Dawn* signs located along Calle Entradero.
- Excluding the two monument signs, all signs will be placed on 4-foot high poles.

C. Public Access Policies of the Coastal Act

After certification of an LCP, the Commission must find that a project, on appeal, is consistent with the certified local coastal program. If the project is located between the first public road and the sea, the Commission must also examine the project for consistency with the public access and recreation policies of the Coastal Act.

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas for all people and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies that address the issues of public access and recreation within coastal areas.

- a) Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

- b) Section 30212 (a) of the Coastal Act states in part :

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects . . .

c) Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The applicant proposes to construct three 224 square-foot, 12-feet high, manned tract entry “observation booths” (Exhibit 3 & 19) on the median islands at the entries to the interior public streets (Paseo de la Luz, Via del Cielo and Calle Viento) of the *Oceanfront* community of Rancho Palos Verdes. The applicant stated that the booths, which are manned by a guard, are to function as a security measure to deter crime. Each structure will contain a restroom for use by the guards. See Exhibit 19 for aesthetic details. The entry treatment development will be located on both sides of the street at the main entrances off of Palos Verdes Drive, Via Vicente and Calle Entradero (Exhibit 4). Each side of the entrances include approximately 32-38 feet of a “low wall” (3 to 4-feet high), 20 feet of a 3 to 4-foot high “retaining wall” and 12 feet of a 6-foot “high wall” with a fountain. At each entrance median a 16 to 18-foot wide island with a 10 to 12-foot wide sign wall is proposed. At the north entry, approximately 80 feet of a separate retaining wall is included in the plans submitted by the applicant.

In response to the action taken by the Coastal Commission in finding substantial issue, the applicant stated that there was never intent to require the interior streets to be used for public parking and access to the coastal resources (Exhibit 15). The applicant also stated that access to the interior streets, while possible, is not necessary for the public to access the bike path and pedestrian trails (Exhibit 15). The City contends that the observation booths provide security for the residents of the community (Exhibit 10, P.5).

If the placement of the observation booths work as intended by the applicant, they will reduce public access and recreation, which is inconsistent with Sections 30210, 30211 and 30220 of the Coastal Act.

Several gated communities are found throughout southern California. However gated communities are usually private. Balboa Bay Club in Newport Beach of Orange County consists of a private beach and residential and club areas that is gated with a guard at the entrance. March 9, 1995 the Commission approved a proposed remodel and expansion of the site with special conditions allowing the public to access the hotel, restaurant, the main parking lot and a public walkway along the bulkhead. The guard facility, residential area, the beach and the club were established prior to the Coastal Act and remain private.

Oceanfront Community is not private and was not intended to be private according to the original coastal development permit.

The proposed manned tract entry observation booths do not ensure the public's right to use the public streets, as required by the Coastal Act. Instead, the booths impede access to the coastline and public roads, parking, open space, trails and bike path. The three proposed manned tract entry observation booths and entry development (6' perimeter walls and fountains) would communicate to the public that the public streets are private and discourage them from entering into the public bluff loop road and/or interior public streets of the *Oceanfront* community. The booths would give people the impression either that the entire Oceanfront community, its amenities and its roads are private and/or that the interior public streets of the community are private. Non-residents who believe they are not welcome on the interior public streets of the community would not enter the public streets to use the potential public parking that support access to the open space areas, path and trail network.

The approval of CP No. 94 required the provision of two parking turnouts along the inland side of Calle Entradero, the bluff road, a 25-space parking lot at the northwest corner of the tract and curbside parking along the north side of Calle Entradero between the east side of the parking lot and Palos Verdes Drive West. The City approval was silent in addressing parking along most of the length of Paseo de la Luz and along the entire length of Via del Cielo and Pacifica del Mar, each of which could provide curbside public parking. The City's approval did identify all of the streets within the community as public streets. Under the Coastal Act, prohibition of parking requires a coastal development permit. Therefore, public parking along these streets must be provided. The manned tract entry observation booths and other development, including the iron gates, would discourage the public from entering the interior public streets and using parking that could be provided to support access to the public open space lots and trail and path system.

In granting Local Coastal Permit No. 94-Revision 'A' and the related development applications, the City made the following findings:

1. That the proposed development is in conformance with the Coastal Specific Plan;
2. That the proposed development, when located between the sea and the first public road, is in conformance with applicable public access and recreational policies of the Coastal Act.

Section 30210 of the Coastal Act requires maximum access, which shall be conspicuously posted. Although the City conditioned the approval of the booths to provide some signage that states that the public is welcome, the booths and entry development themselves are intimidating. Some people may see the booths or the six-foot high walls from a distance, without seeing the signs, and believe it is a private community. Others may enter the community, thus coming within a close enough distance to read the signs, but may decide not to approach the booths for fear of being stopped by the guard inside the booth, being questioned, or being charged a fee for entry. The signage would not mitigate the adverse

impacts the proposed development would have on public access to the public roads, parking, open space, trails and bike path of the *Oceanfront* community. The proposed booths would prevent maximum access and are not consistent with this policy of the Coastal Act.

Section 30212 (a) of the Coastal Act requires new development projects to provide public access from the nearest public roadway to the shoreline and along the coast. This requirement was met in CP No. 94, the original approval of the *Oceanfront* project, by conditioning the project's approval on the placement of a bluff loop road accessed from Palos Verdes Drive West, the main access corridor of the City. The booths, by impeding the entry of some members of the public who would believe that they were an indication that the community and/or its public streets were private and not allow public entry, are inconsistent with this policy of the Coastal Act.

Section 30221 of the Coastal Act requires the protection of oceanfront land suitable for recreational use and development. The approval of the *Oceanfront* project was subject to the provision of public open space areas, trails, a bike path and support parking. Those members of the public, who may decide not to enter the community because the booths give them the impression that the public is not welcome, would not have access through the community to these public recreational opportunities. By discouraging members of the public from using these public amenities, the booths are inconsistent with this policy of the Coastal Act.

The applicant does not agree that the observation booths as planned discourage use of the interior streets for public parking or access. However, the applicant's argument is that some people, i.e. criminals, would be discouraged to enter the streets because of the presence of the booths. The applicant also proposes coastal access signs to help facilitate public access. Adverse impacts should be avoided all together (guard houses) when possible rather than simply imposing a mitigation measure (signage).

The applicant adds that the public parking being provided on the loop-street is adequate to meet public needs. The applicant has submitted a Public Parking Analysis for the Oceanfront Community vesting Tentative Tract 46628 (September 24, 2001) located in Rancho Palos Verdes, California (Exhibit 16, P.3). The parking survey was done during two August weekends of this year 2001 to determine if the existing designated public parking spaces provided in this project are adequate to meet the current demand. The applicant contends that the designated parking spaces are adequate to meet public need according to the survey results.

Based on the parking survey, there may be sufficient parking available at the present time. Whether there is adequate parking available for future needs is not evident. However, adequate parking is not the issue. The interior streets of the project are in fact public streets. It is the objective of Coastal Act policies to protect coastal resources for the public and the public right to access those resources. The public has the right to access the interior streets. The proposed

manned observation booths and entry development including perimeter walls, fountains and the iron gates would discourage that public right.

The proposed manned tract entry observation booths, entry treatment development and iron gates would reduce access to the public streets, parking, bike path and pedestrian trails accessed via the bluff loop road and interior public streets of the *Oceanfront* community. Public Access policies of the Coastal Act provide that maximum access and recreational opportunities shall be provided. In the original coastal permit, all proposed streets were approved as public streets. The placement of six-foot tall entry walls and fountains and interior street guard houses with guards discourage the public from even approaching the area thus preventing them from fully utilizing the recreational amenities that are available. Discouraging the recreational use of oceanfront land and discouraging parking on public streets is inconsistent with the public access policies of the Coastal Act and the provisions of the approved underlying permit.

D. Access Policies of the LCP

The standard of review of a locally issued coastal development permit on appeal is the certified LCP and; when located between the first public road and the sea, the access and recreation policies of the Coastal Act. The Corridors Element of the certified LCP identifies the bluff corridors as access corridors. It requires a bluff edge public road on all projects in undeveloped areas, with areas seaward of the road to be dedicated for public use. The LCP requires a bluff road and an access corridor on the seaside of all new subdivisions. It identifies access corridors and provides for support facilities so that the public may reach and enjoy these corridors. Rancho Palos Verdes is located on a peninsula. The LCP finds that prior to development most private areas supported a network of trails along the bluff edge.

The Access Corridors section of the Corridors Element of the LCP requires that a “continuity of pathways between major access corridors, open spaces, etc., should be provided within private developments.”

The certified LCP states, “The primary access corridor within the coastal zone of Rancho Palos Verdes is Palos Verdes Drive West/South/25th Street, which is a multifunction access corridor providing automobile, bicycle and pedestrian access. Palos Verdes Drive West/South/25th Street forms the spine of an access corridors concept that involves a series of laterals and loops within the coastal zone which provide access to, from and through developed and undeveloped areas of the City (Exhibit 18). The LCP states: it is the policy of the City to require development proposals within areas which might impact corridors to analyze the site conditions in order to mitigate impacts and obtain feasible implementation of all corridor guidelines.”

The LCP names the following relevant guidelines, or planning and design considerations, for access corridors:

- a) Wherever possible, proposed access corridors should be located so as to maximize compatible opportunities for multi-use relationships with other corridor types (overlaid or parallel).
- b) Continuity of pathways between major access corridors, open spaces, etc., should be provided within private developments, but designed so as to retain privacy for adjacent residents within these developments.
- c) Where desirable and possible, access corridors should include overlooks, viewpoints, rest stops, and other open space elements within their designs to both provide a broader range of use beyond the utilitarian access function of the corridor as well as to vary its physical configuration, providing visual and spatial interest.

The LCP also requires that “proposed streets minimize interference with path and trail networks”. The LCP includes specific requirements for each subregion. In this area, Subregion 1, the certified LCP requires a bluff road, where feasible, to be located between the natural drainage course along the northern property line and Point Vicente on the southern property line, with no residential lots permitted seaward of the bluff road. In Subregion I of the Rancho Palos Verdes coastal zone, it is a policy of the certified LCP to “require new developments to provide path and trail links from the bluff corridor to paths and trails along Palos Verdes Drive West”.

As part of its approval of CP 94, The City required the following public trail and bike path alignments to be developed:

- a) The *Palos Verdes Drive Trail-Golden Cove Segment*, a pedestrian and equestrian trail and a Class II bike path beginning at the north property line and heading south along the west side of Palos Verdes Drive West to the southern property line,
- b) The *Palos Verdes Loop Trail-Sunset Segment*, a pedestrian trail beginning at the north property line and heading south as close to the bluff as possible to the southern property line, including three preserved vista points, and connecting to the existing Seascape Trail in the Lunada Pointe development and the Interpretive Center Trail and the Baby’s Breath Trail in Lower Point Vicente Park,
- c) The *Coastal Access Road-Subregion I*, a Class I bike path running parallel to and on the seaward side of the coastal bluff road and connecting to the Class II bike path along Palos Verdes Drive West, and d) the *Coastal Access Trail-Terrace Trail*, a point to point pedestrian trail beginning at the intersection of Palos Verdes Drive West and Hawthorne Boulevard and extending westward towards the bluff top and connecting with the Sunset Segment.

The Access Corridors section of the Corridors Element of the LCP requires that a “continuity of pathways between major access corridors, open spaces, etc., should be provided within private developments.” The underlying permit (CP 94) accomplished this by requiring a continuous bluff top road and a continuous bluff top trail connected to the open space corridors within the development. As interpreted in the City’s original approval, this required continuous pathways between major access corridors (i.e. Palos Verdes Drive West), the bluff top road and the two habitat/open space areas within the development. The bluff road and the trail would connect to the vertical access trails provided through open space Lot 82 at the western end of the tract.

In the original permit, the City required the proposed bluff loop road to be revised and expanded to have a minimum 26 foot roadway width (consistent with coastal development and design guidelines of the certified LCP), clearly showing the on-street parking on the landward side of the street, as well as the Class I bike path and the pedestrian trail on the seaward side of the bluff road (Exhibit 13, P.53), and indicate the topographic relationship between the roadway and the trails.

The original permit Coastal Permit No. 94 provided public access and recreation support over streets, roads, trails, and bikepaths:

*All streets, trails, bikepaths and parking areas identified on Revised Vesting Tentative Map Tract No. 46628 shall remain public. Said public parking spaces include, but are not limited to, spaces located on the project plans on Palos Verdes Drive West, the “A” street turnouts, on “B”, “C”, “D” and “E” streets, and on portions of “A” street that are not located on the “bluff road” portion of “A” street. Long-term public parking shall be permitted from dawn to dusk. **No restrictions, including the gating of any residential communities**, or abandonment or interference with vertical access paths identified on the project plans, may be imposed to prevent access by the public. Signs, red curbs, structures or other restrictive mechanisms that discourage public use of the parking and other public amenities during the aforementioned hours of public use are not allowed. (emphasis added)*

94-Revision ‘A’ does not address paths and trails. As part of their findings, the City stated that the manned tract entry observation booths did not interfere with the bluff-top road or the trail system. The City stated in their findings that the observation booths “may provide improved security for the residents of the *Oceanfront* Community” (Exhibit 10, P.5).

In this amendment CP No. 94-Revision ‘A’, the City required signs on the booths to inform the public that the streets are public, and has prohibited the guards in the booths from stopping visitors. These City requirements, however, would not fully mitigate the adverse impacts the proposed booths and tract-entry treatment would have on public access to the public amenities of the *Oceanfront* community. The proposed development would interrupt access from Palos Verdes Drive West to the open space lots via the interior public streets by communicating that the public streets are private and discouraging many non-residents

(public) from entering into the interior public streets of the community. This is inconsistent with the policy of the LCP that states that “proposed streets should minimize interference with path and trail networks.” There are public access trails that run along the bluff loop road connecting at Palos Verdes Drive West and Calle Entradero and Via Vicente.

The applicant has stated that the purpose of the booths is to discourage entry of criminal activity. However, if it discourages the criminals, how will it not discourage others? While erecting tract entry observation booths at the entrances to the interior public streets may appear to be a simple means to control unwanted activity within the community; a range of more appropriate measures is available. The area surrounding the subject site is low-density suburban in nature, as opposed to urban, and is open rather than closed, walled, guarded and private. The applicant has provided no evidence that the proposed manned tract entry observation booths would not deter public entry to the public roads, parking, trails, bike path and open space areas in the community.

In response to the appeal by Commissioners Wan and Estolano, the City stated that “all of the public parking in support of the public open space lots and the trail system is located in an off-street parking lot at the northern end of the community (located on the seaward side of the loop road) and in two on-street turnouts on the inland side of the loop road.” The Commission does not argue the existence of the available parking. The applicant is contending that the parking is sufficient. The existing corollary with the applicant’s contention is that the booths are intended to reduce public access to the interior streets. The applicant states that there is a parking lot at the northwest corner of the tract that provides 25 parking spaces and there are two turnouts along the inland side of Calle Entradero, the bluff road, each of which provides 9 parking spaces. Currently, a total of 43 public parking spaces are provided within the subdivision. However, the City’s original approval of the underlying permit also required the provision of parking spaces on the north side of Calle Entradero, a 36-foot-wide stretch of street, between the east side of the bluff parking lot and the intersection with Palos Verdes Drive West.

According to the City’s response to the Larue appeal of CP No. 94 in 1992, this area could accommodate 35 curbside parking spaces; however, no spaces had been designated in that area prior to the Substantial Issue August, 2001 hearing. In a letter responding to the Substantial Issue staff report, the applicant proposes to provide additional 31 parking spaces at this location. The City asserted that the designated public parking is accessed via the tract loop road, which will not have a booth at either entry—the booths would be placed at the entries to the interior tract streets. The City and applicants claim that only the bluff road is to be used for public parking. The underlying permit, which is consistent with the certified LCP, provided that 1) the bluff road is public 2) interior streets provide access to open space lots 3) 31 parking spaces on an interior lot and 4) 32 additional spaces offered by the applicant. Therefore, interior streets are described as public and as providing parking. The Commission found no substantial issue with the underlying permit.

Parking to support access along the trails, paths and bluff top road is required in the certified LCP to be provided on local public streets. In its 1992 action, the City identified

certain limited areas where parking is prohibited in the community, but was silent in addressing parking along most of the length of Paseo de la Luz and along the entire length of Via del Cielo and Pacifica del Mar (Exhibit 13, P.53--55). By discouraging the public from entering the interior public streets, the proposed manned tract entry observation booths would prevent the public from using public parking spaces that could support the public amenities provided in the community. By preventing the public from using parking that could be made available along the interior public streets, the manned tract entry observation booths could discourage many non-residents (public) from accessing the public open space lots or trail and path system.

The iron gates that stretch across the northern end of Via del Cielo completely block public access to that northern portion of the street. The applicant claims that the purpose of the iron gates is to provide traffic safety within the model area while homes are being sold. The applicant contends that the gates are open during the day. However, during three different site visits (during the week, in the daytime), the gates were closed and locked with no attendant in sight. Although the applicant states that the gates are only to remain for the duration of sales, this is a clear 3-year or so interruption of public access and is inconsistent with public and recreation policies of the Coastal Act.

The proposed entry-treatment development at the two main entrances on Palos Verdes Drive including: fountains, six-foot high, 12-foot long perimeter walls and the "Oceanfront" median entry signs are primarily for decorative purposes and may impress upon the public that the area is a private community. The applicant contends that the proposed coastal access signs are to help facilitate public access in conjunction with the proposed observation booths. Although, some of the signs are to be constructed on the observation booths, these are not part of the original permit and are only offered as mitigation by the City. These are being recommended for denial by the Commission. The proposed project, which would allow the construction of the three manned tract entry observation booths, perimeter walls, fountains, signs and iron gates are inconsistent with the underlying permit, which was consistent with the LCP.

E. Public Views/Visual Resource Policies of the Certified LCP

In its adoption of Resolution No. 92-27, the City Council found, determined and resolved for the approval of the coastal development permit that the proposed project, as conditioned, preserves the view corridors identified in the visual corridors section of the Coastal Specific Plan (Exhibit 13, P.59). Since the Coastal Specific Plan identifies Palos Verdes Drive West as a continuous visual corridor, development on the subject property had the potential to impact the views from this arterial roadway. To address this issue, the applicant proposed to lower the pad levels of the lots adjacent to Palos Verdes Drive West an average of 20 feet below the roadway. In its adoption of Resolution No. 92-27, the City Council found, determined and resolved for the approval of the grading permit that the proposed residential lots on the proposed lower pad elevation would preserve view corridors to the

ocean, Point Vicente Lighthouse and Catalina Island, as identified in the certified LCP, when viewed from Palos Verdes Drive West and Hawthorne Boulevard.

The City's coastal development and design guidelines suggested that the bluff road and open areas along its length should be developed under CP No. 94 with a visual emphasis on the natural terrain and environment, with the roadway of lesser visual importance. The guidelines suggested, therefore, that the bluff loop road be 26 to 32 feet wide with on-street parking provided only along the landward side of the roadway. The City required that the parking be provided on the landward side of the roadway to protect the views from the bluff loop road. The City conditioned the approval of the CP No. 94 to provide a 26-foot wide bluff loop road with on street parking on the landward side of the roadway.

The City required that the common open space areas be located in a manner that is accessible to viewing by the general public from public roads and/or walkways, while also preserving public views to the coast. The redesigned project included three view corridors across the site:

1. A view to the west from Hawthorne Boulevard to the bluff down the bluff road and over Common Lot Nos. 81 and 82 (Photo 2).
2. A view to the northwest of the Malibu coast (Photo 3) and southwest of Catalina Island and the Point Vicente Lighthouse (Photo 4) from Palos Verdes Drive West over the Common Lot No. 80.
3. A view to the west from Palos Verdes Drive West to the bluff down the bluff road and over Common Lot Nos. 82 and 83.

The appeal of Commissioners Sara Wan and Cecilia Estolano contended that the proposed project and the local coastal development permit raise significant issues with regards to consistency with the visual resource policies of the certified LCP.

According to the certified LCP, "it is the policy of the City to require development proposals within areas which might impact corridors to analyze the site conditions in order to mitigate impacts and obtain feasible implementation of all corridor guidelines." Palos Verdes Drive functions as "the primary visual corridor accessible to the greatest number of viewers, with views of irreplaceable natural character and recognized regional significance."

The LCP identifies four specific visual corridors available over the subject property from Palos Verdes Drive West:

1. A view of the ocean and Catalina Island traveling south on Palos Verdes Drive West (Photo 5).
2. A view of the ocean and Malibu coastline traveling north of Hawthorne Boulevard on Palos Verdes Drive West (Photo 3).

3. A view of the Point Vicente Lighthouse traveling south on Palos Verdes Drive West (Photo 4).
4. A view of the ocean and local coastline traveling north of the Point Vicente Lighthouse on Palos Verdes Drive West (Photo 6).

The LCP provides a method to protect the visual relationship between the drive and ocean in areas that are not part of an identified vista corridor. For those areas which are not part of an identified vista corridor, the LCP requires that “no buildings should project into a zone measured 2 feet down-arc from horizontal as measured along the shortest distance between the viewing station and the coastline”.

Given only the LCP maps and descriptions for visual corridors at the time the Commission received notice of approval of CP No. 94-Revision ‘A’ from the City, the Commission concluded that each of the proposed manned tract entry observation booths could have impacts to the visual resources identified in the LCP. After receiving the complete record and having the opportunity to conduct site visits, however, the Commission determined that only the proposed booth at the entry to Calle Viento would impact an identified visual corridor. The proposed booth at the entry to Calle Viento would interrupt the expansive visual corridor to the ocean and Catalina Island available when traveling south on Palos Verdes Drive West. The City’s approval of CP No. 94 required removal of all of the proposed homes seaward of the bluff road at the southwestern end of the property and dedication of Common Lot Nos. 81 and 82 as open space, thus preserving the open view corridor over those lots. The median at the entry to Calle Viento, where the booth is proposed to be located, is directly between the open space areas of Common Lots 81 and 82. Therefore, the proposed 250-square-foot, 12-foot tall manned tract entry observation booth would adversely effect the view corridor.

The proposed booths at the entries to Paseo de la Luz and Via del Cielo, on the other hand, would not interrupt any of the visual corridors identified in the certified LCP. These booths are proposed to be located at locations having significantly lower grade than Palos Verdes Drive West, the viewing station named for the visual corridor identified in the LCP. The booths at these locations, therefore, are also consistent with the requirement of the LCP that “no buildings should project into a zone measured 2 feet down-arc from horizontal as measured along the shortest distance between the viewing station and the coastline.” In addition, CP No. 94 permitted the construction of homes adjacent to and seaward of the proposed locations of these booths. The cumulative visual impacts of the homes and the proposed booths at the entries to Paseo de la Luz and Via del Cielo would negate any minimal visual impacts the booths could have when viewed from the bluff loop road or interior public streets.

The applicant has submitted a Visual Assessment and letter (August 28, 2001) addressing staff’s contention that the proposed manned tract entry observation booth at the entry to Calle Viento would interrupt an identified visual corridor (Exhibit 17). The view analysis was

conducted along Palos Verdes Drive West for only that one location (Exhibit 15). The analysis consisted of putting flagged poles in the location of the proposed booth and then taking pictures from Palos Verdes Drive West. The applicant contends that the observation booth does not have a significant impact on the view corridor because it would be barely visible from Palos Verdes Drive West. Whether or not describing the adverse impact as insignificant is accurate, the proposed booth at the entry to Calle Viento would interrupt the expansive visual corridor because it is directly between the open space areas of Common Lots 81 and 82 (Exhibit 17). During site visits, staff started at Palos Verdes Drive West and Hawthorne Boulevard and walked/drove down Via Vicente and found that the proposed booth would have an adverse impact on public view.

The proposed project is inconsistent with the visual resource policies of the certified LCP because the proposed manned tract entry observation booth at the entry to Calle Viento would interrupt a view corridor identified in the LCP. The booth also limits the view corridor to Palos Verdes Drive.

F. LCP Coastal Development Permit Requirement

Procedural Note:

Placement of the iron gates is not exempt. The City of Rancho Palos Verdes coastal development permit ordinance requires coastal development permits for all development.

In Section 16.04.365 of Ordinance No. 149 Development is defined:

On land in or under water, the placement of erecting of any solid material or structure; discharge or disposal of any dredged material or if any gaseous, liquid, solid, or thermal waste; grading, removing dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division is brought about in connection with the purchase of such land by a public agency for public recreational use; reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal or harvesting of major vegetation other than for agricultural purposes. As used in this definition, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line.

The City requires permits for development within the Coastal Specific Plan area (Chapter 17.67 of City Ordinance No. 149).

Section 16.04.445 of the City's LCP exempts certain repair and maintenance activities and additions to existing structures from coastal permit requirements, consistent with Section 30610 of the Coastal Act. However, this section does not exempt development that may have "an adverse impact to public access."

The perimeter walls, fountains, signs, fences and iron gates are development. This development is not exempt from permit requirements because (1) they are features of Coastal Permit No. 94 and addressed, analyzed and limited in that permit to protect LCP designated view corridors, and are subject to the terms of that permit or require approval through an amendment process, they are also located within and adjacent to land that is designated in part as a view corridor in a certified local coastal program, California Code of Regulations Section 13253 (b)(1) and may have an adverse affect on public access..

The perimeter fence was a feature approved in the original permit Coastal Permit No. 94, and as such is still part of that permit. The City approved the fence in Coastal Permit No. 94 with a condition that limited the height to 42 inches and that required it to be "open". In reviewing this CDP amendment, the Planning Commission found that the construction of a few small segments as six-foot high plaster-covered fences with decorative fountains could be approved. According to city staff and notice of Planning Commission meeting, the City amended CP-94 to include this change, but did not include it on City Council hearing and notice of final action. Since as noted above the City Council did not explicitly include the fence height change, in its appeal, the final CDP noticed to the Commission did not include the changes in fence height and design. The applicant agrees that the fence changes should be included in this CDP.

By not issuing or amending a coastal development permit for development of "small sections of maximum 6-foot-tall perimeter wall, fountains and tract identification signs", the City did not provide notice to the public or the Commission. Approval of this development without the issuance or amendment of a coastal development permit denied the public and the Commission the opportunity to appeal.

The Commission notes that, in its revised findings for certification of the IP portion of the certified LCP, found "that certain provisions of the California Administrative Code, found in Article 17, Title 14, specifically PRC Sections 30800-30823, (Judicial Review and Penalties); Section 13574 of the Administrative Code (Dedications) and Coastal Act Section 30600 (a) cannot be overridden by any act of the City and apply to and within the coastal zone of the City of Rancho Palos Verdes whether or not they are specifically cross-referenced in the City Code." The Commission therefore found "that such references are unnecessary to adequately carry out the provisions of the Land Use Plan and that the ordinances, as drafted, are consistent with and adequately carry out the provision of the certified Land Use Plan." The findings reiterate that the certified LCP requires a coastal development permit for any development in the coastal zone.

The applicant does not dispute this. It is his request that the Commission consider the coastal access signs, iron gates with adjacent fencing, perimeter walls and fountains described herein in its de novo portion of the appeal.

G. Certified Local Coastal Program

The City of Rancho Palos Verdes does have a certified Local Coastal Program for the Rancho Palos Verdes area. The LCP was certified by the Commission on April 27, 1983. The LCP identifies access and view corridors and provides for support facilities so that the public may reach and enjoy these corridors. It is a policy of the certified LCP to “require new developments to provide path and trail links from the bluff corridor to paths and trails along Palos Verdes Drive West” in Subregion I of the Rancho Palos Verdes coastal zone. The LCP identified the need to provide access corridors, including bikeway, pedestrian and equestrian paths and trails, to and through the development. The proposed project discourages public access and impairs public views from public streets and is therefore inconsistent with the provisions and the goals of the certified LCP and is not in conformance with the LCP.

H. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect, which the activity may have on the environment.

In this case, there exists a viable use on the property: a 79-home subdivision. Security personnel who drive or walk through the neighborhood constitutes a feasible alternative to the construction of the proposed manned, 12-foot high observation booths. Construction of a three-foot high perimeter fence with an open design constitutes a feasible alternative to the construction of the proposed 6-foot, blocked wall at the entrances to the Oceanfront Community. Construction of speed bumps in the street at the northern end of Via del Cielo constitutes a feasible alternative to the construction of 5-foot high iron gates that stretch across the street and block access to that area of the street. The proposed development discourages public and recreational access, reduces public view of the ocean and bluff top, and is not consistent with the character of Rancho Palos Verdes neighborhoods. The denial of this project would reduce the project’s adverse impacts to public access and public views.

Therefore, there are feasible alternatives or mitigation measures available, which will lessen the significant adverse impacts that the development would have on the environment. Therefore, the Commission finds that the proposed project is not consistent with CEQA.

I. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit, including placement of two five-foot high iron gates across the northern end of Via del Cielo, an internal public street. Consequently, the work that was undertaken constitutes development that requires a coastal development permit.

Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of the City of Rancho Palos Verdes Local Coastal Program, and the access and recreation policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.